



Docket 80724ATJS
Customer No. 01333

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Dana W. Wolcott, et al

SYSTEM AND METHOD FOR
PROVIDING IMAGE PRODUCTS
AND/OR SERVICES

Serial No. 09/574,985

Filed May 19, 2000

Group Art Unit: 1648

Examiner: Timothy M. Brown

I hereby certify that this correspondence is being
deposited today with the United States Postal Service
as first class mail in an envelope addressed to
Commissioner For Patents, P.O. Box 1450, Alexandria,
VA 22313-1450.

Paula West
Paula West

6-19-06
Date

Mail Stop APPEAL BRIEF-PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA. 22313-1450

Sir:

SUPPLEMENTAL APPEAL BRIEF TRANSMITTAL

Enclosed herewith is Appellants' Supplemental Appeal Brief for the
above-identified application.

The Commissioner is hereby authorized to charge the Appeal Brief filing
fee to Eastman Kodak Company Deposit Account 05-0225. A duplicate copy of
this letter is enclosed.

Respectfully submitted,

Thomas J. Strouse

Attorney for Appellants
Registration No. 53,950

Thomas J. Strouse/phw
Telephone: 585-588-2728
Facsimile: 585-477-4646
Enclosures

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the
Examiner is requested to communicate with Eastman Kodak Company Patent Operations at
(585) 477-4656.



Docket 80724ATJS
Customer No. 01333

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of
Dana W. Wolcott, et al.

SYSTEM AND METHOD FOR
PROVIDING IMAGE PRODUCTS
AND/OR SERVICES

Serial No. 09/574,985

Filed 19 May 2000

Group Art Unit: 1648
Confirmation No. 9582
Examiner: Timothy M. Brown

I hereby certify that this correspondence is being
deposited today with the United States Postal Service
as first class mail in an envelope addressed to
Commissioner For Patents, P.O. Box 1450, Alexandria,
VA 22313-1450.

Paula West

Date

Mail Stop APPEAL BRIEF-PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Sir:

SUPPLEMENTAL APPEAL BRIEF PURSUANT TO 37 C.F.R. 41.37 and 35

U.S.C. 134

06/21/2006 NNGUYEN1 00000062 050225 09574985
01 FC:1402 500.00 DA



Table Of Contents

<u>Table Of Contents</u>	i
<u>Real Party In Interest</u>	1
<u>Related Appeals And Interferences</u>	1
<u>Status Of The Claims</u>	1
<u>Status Of Amendments</u>	1
<u>Summary of Claimed Subject Matter</u>	2
<u>Grounds of Rejection to be Reviewed on Appeal</u>	2
<u>Arguments</u>	5
<u>Summary</u>	15
<u>Conclusion</u>	15
<u>Appendix I - Claims on Appeal</u>	16
<u>Appendix II – Evidence</u>	25
<u>Appendix III – Related Proceedings</u>	26



APPELLANT'S BRIEF ON APPEAL

Appellant hereby appeals to the Board of Patent Appeals and Interferences from the Examiner's Final Rejection of claims 1-36 which was contained in the Office Action mailed July 6, 2005.

A timely Notice of Appeal was mailed October 5, 2005.

Real Party In Interest

As indicated above in the caption of the Brief, the Eastman Kodak Company is the real party in interest.

Related Appeals And Interferences

No appeals or interferences are known which will directly affect or be directly affected by or have bearing on the Board's decision in the pending appeal.

Status Of The Claims

Claims 1-36 are pending in the application and are finally rejected.

Appendix I provides a clean, double-spaced copy of the claims on appeal.

Status Of Amendments

An initial Office Action was mailed on August 27, 2002. An Amendment in response to the initial Office Action was mailed on November 22, 2002. A final Office Action was mailed on February 10, 2003. An Amendment in response to the final Office Action was mailed on April 21, 2003. An Interview Summary was mailed on April 29, 2003. An Advisory Action was mailed on May 19, 2003. A Request for Continued Examination (RCE) was filed on June 3, 2003. An Office Action was mailed on July 17, 2003. An Amendment in response to the Office Action was mailed on October 8, 2003. A Final Office Action was mailed on December 30, 2003. An Amendment in response to the final Office Action was mailed on February 26, 2004. An Advisory Action was mailed on April 13, 2004. A Notice of Appeal was mailed on April 19, 2004. An Appeal Brief was mailed on June 14, 2004. An Office Action was mailed on October 21, 2004. An Amendment to the Office Action was mailed on February 24, 2005. A final Office Action was mailed on July 6, 2005. An Amendment to

the final Office Action was mailed on July 28, 2005. A Notice of Appeal was mailed October 5, 2005.

Summary of Claimed Subject Matter

Appellant's invention relates to a method and system for providing photographic products or services to a customer. The system and method allows a customer the ability to select a camera from a selection of cameras and to select a type of photographic service plan from a menu of plans which are to be associated with the images captured by the selected camera. *See* page 38, lines 17-39. The photographic product/service plan may be in the form of a subscription or contract that can be set for a predetermined time such as a year and at a predetermined fee. *See* page 38, lines 21-39. The selected photographic product/service plan is entered into a database and is associated with the selected camera so that the appropriate goods or services will be provided to the customer with respect to images captured by the selected camera. *See* page 38, lines 28-31; page 39, lines 24-31. The photographic products and/or photographic services also includes providing a selected camera to a user for a predetermined time period at a predetermined fee, and providing film development for a predetermined number of rolls of film exposed by said selected camera during said predetermined time period. *See* page 33, lines 11-17; page 38, lines 25 - page 39, line 23. The photographic services and/or photographic products further include providing a selected amount of photographic prints of the developed film. *See* page 38, lines 25 - page 39, line 23.

Grounds of Rejection to be Reviewed on Appeal

The following issues are presented for review by the Board of Patent Appeals and Interferences:

Issue 1. Whether the invention of claims 1, 8, 11 and 13 is unpatentable over Ricoh ("Ricoh to Bundle Club Photo Internet-based Photo Sharing Software with New 2-Megapixel Digital Camera" Business Wire (June 8, 1999)) in view of Cameraworld¹ and Safai et al. (US 6,167,469). According to the Final Office Action, dated July 6, 2005, with respect to claims 1, 8, 11 and 13,

¹ <http://web.archive.org/web/19970414000034/http://www.cameraworld.com/index.html>

Ricoh expressly discloses selecting a camera, associating the selected camera with a service plan to create an online account, and entering account information into a database to maintain a record of products or services to be provided. However, according to the Final Office Action, Ricoh and Club Photo do not disclose selecting a camera from among a selection of cameras. However, according to the Final Office Action, Cameraworld shows that at the time of Applicant's Invention, the Internet was being used to offer consumers an online camera catalog. Therefore, according to the Final Office Action, it would have been obvious to one of ordinary skill in the art to modify Ricoh to market its camera over the Internet.

Further, according to the Final Office Action, Ricoh and Cameraworld do not disclose automatically accessing a computer database when images are received from a selected camera. However, according to the Final Office Action, Safai et al. overcomes this deficiency by disclosing the automatic distribution of digital images to a remote server. Therefore, according to the Final Office Action, it would have been obvious to one of ordinary skill in the art to modify Ricoh and Cameraworld to include the teaching of Safai et al.

Issue 2. Whether the invention of claims 14, 15, 24 and 36 is unpatentable over Ricoh ("Ricoh to Bundle Club Photo Internet-based Photo Sharing Software with New 2-Megapixel Digital Camera" Business Wire (June 8, 1999)) in view of Cameraworld. According to the Final Office Action, with respect to claims 14, 15, 24 and 36, Ricoh expressly discloses selecting a camera, associating the selected camera with a service plan to create an online account, and entering account information into a database to maintain a record of products or services to be provided. According to the Final Office Action, Ricoh and Club Photo do not disclose that selecting a camera from "among a selection of cameras" was publicly known and/or used. However, according to the Final Office Action, Cameraworld shows that at the time of Appellant's invention, the Internet was being used to offer consumers an online camera catalog. Therefore, according to the Final Office Action, it would have been obvious to one of ordinary skill in the art to modify Ricoh to include Cameraworld's online selection of cameras.

Issue 3. Whether the invention of claims 2 and 3 is unpatentable over Frink (Frink, S. "Ocean Divers; a full service dive resort on the shores of

Pennekamp Park” Skin Diver (August, 1985) Vol. 34, p. 103) in view of Promo (Creative Gallery: ‘Olympus Camera Craze’” Promo (September 1994)) and Safai. According to the Final Office Action, Frink teaches a method of providing photographic products and/or services, comprising: selecting a camera among a selection of cameras; selecting a photographic service plan from a menu of plans; associating the selected camera with the selected photographic product to create an account; wherein the selected camera is provided for a predetermined period of time for a predetermined fee. However, according to the Final Office Action, Frink does not teach entering a user’s account information into a database. Nevertheless, according to the Final Office Action, one of ordinary skill in the art of renting camera equipment would recognize that greater organization and information access could be gained by electronically storing transaction information. Also, according to the Final Office Action, Frink does not teach providing film development for a predetermined number of rolls of film. Nevertheless, according to the Final Office Action, Promo teaches offering free film. Further, according to the Final Office Action, Frink and Promo do not teach automatically accessing a computer database when images are received from a digital camera. Nevertheless, according to the Final Office Action, Safai discloses distributing digital images in connection with the maintenance of a photo Album.

Issue 4. Whether the invention of claims 18 and 19 is unpatentable over Frink (Frink, S. “Ocean Divers; a full service dive resort on the shores of Pennekamp Park” Skin Diver (August, 1985) Vol. 34, p. 103) in view of “Promo” (Creative Gallery: ‘Olympus Camera Craze’” Promo (September 1994)).

Arguments

Issue 1

1. **CLAIMS 1, 8, 11 AND 13 ARE PATENTABLE OVER RICOH IN VIEW OF CAMERAWORLD AND SAFAI BECAUSE RICOH, CAMERAWORLD AND SAFAI, ALONE OR IN COMBINATION, FAIL TO SHOW ALL OF THE ELEMENTS RECITED IN CLAIMS 1, 8, 11 AND 13.**
 - a. **RICOH, CAMERAWORLD AND SAFAI DO NOT DISCLOSE, EXPRESSLY OR INHERENTLY, AT LEAST SELECTING A PHOTOGRAPHIC PRODUCT AND/OR PHOTOGRAPHIC SERVICE PLAN AS RECITED IN CLAIM 1.**

According to Appellant's invention as recited in claim 1, Appellant's invention requires selecting a photographic product and/or photographic service plan from a menu of photographic product and/or photographic service plans.

In Appellant's invention, the product or service plan is associated with a particular camera. *See* page 38, lines 21 through page 39, line 31. Thus, the plan is not associated with images from a particular user but from a particular device. As described in Appellant's Specification, a plan is something that determines what products or services are to be provided in the future with respect to a specific camera. Thus, a plan is something that is determined in advance of actually receiving or capturing the images. This is in sharp contrast to the mere selection and ordering of goods or services on a database or in a store. The product service plan of Appellant's invention is directed to providing goods or services with regard to actions that occur in the future, i.e. the supplying of images through the service provider from a particular camera.

Ricoh fails to teach or suggest at least selecting a photographic product and/or photographic service plan from a menu of photographic product and/or photographic service plans. In particular, Ricoh is directed to providing executable software that "enables users to manage, organize and electronically share their images on the Internet or the desktop with only a few clicks of the mouse." *See* Ricoh, lines 12-14. The software merely allows the user to "move or copy photos from the camera, scanner or disk to the Web," whereby images

may be shared. *See Ricoh* at lines 15-18. Appellant submits that the executable software is not a product or service plan. Accordingly, it is respectfully submitted that Ricoh fails to teach or suggest the invention as set forth in independent claim 1.

It is respectfully submitted that Ricoh does not add anything which would render Appellant's independent claim 1 obvious. The Examiner is correct in that Club Photo offers the ability of the user of the camera to share pictures, however, there is no teaching or suggestion of providing a menu of photographic products or service plans and entering such into an account that would automatically provide goods or services upon receiving images from a selected designated camera. The software provided by Club Photo is independent of the camera. There is no association of a plan with a particular camera as taught and claimed by Appellant. As noted in the cited Club Photo web page, membership is "free" and is clearly not tied to purchase of any camera. The Web site generates revenue through the sale of image products. Nowhere in Ricoh is it disclosed that the membership is tied to purchase of a camera. Moreover, there is no teaching or suggestion in Ricoh wherein being a member of Club Photo provides selecting a photographic product and/or photographic service plan from a menu of photographic product and/or photographic service plans.

Cameraworld fails to remedy the deficiencies of Ricoh as Cameraworld also fails to teach or suggest at least selecting a photographic product and/or photographic service plan from a menu of photographic product and/or photographic service plans. Rather, Cameraworld merely illustrates the ability of purchasing various different cameras on-line. However, Appellant's invention is not directed solely to the purchasing of a camera, but the ability of purchasing a camera among a selection of cameras and selecting a photo service plan from a menu of photographic products and service plans and entering this into a database, and when images are received from the designated camera, the automatic providing of goods or services. Clearly the prior art fail to teach this. The Ricoh and Cameraworld references fail to teach or suggest the invention as taught and claimed by Appellant.

Safai fails to remedy the deficiencies of Ricoh and Cameraworld as Safai also fails to teach or suggest at least selecting a photographic product and/or photographic service plan from a menu of photographic product and/or photographic service plans. Rather, the Examiner has cited Safai for the proposition of illustrating the automatic distribution of images from a camera to a

remote server. However, there is no teaching or suggestion of associating a particular service plan with a selected camera where upon there is the automatically accessing of a computer database when images are received from the selected camera and providing the associated photographic product or service plan. Safai, while teaching the distribution of images from a digital camera, does not teach or suggest the distribution based on association with a particular designated camera. Quite the contrary, as set forth at column 15, lines 29-30, a user name and password is required. Thus, this is a clear indication that Safai is not camera specific but is user specific requiring a unique user name and password.

This is in sharp contrast to the present invention where the service plan is tied to providing goods or services captured by a particular camera. There is no teaching or suggestion in Safai to tie a product or service plan to a particular camera as taught and claimed by Appellant.

Thus, Ricoh, Cameraworld and Safai do not teach, expressly or inherently, selecting a photographic product and/or photographic service plan from a menu of photographic product and/or photographic service plans. Therefore, Appellant respectfully submits that claim 1 is patentable over Ricoh, Cameraworld and Safai.

b. RICOH, CAMERAWORLD AND SAFAI DO NOT DISCLOSE, EXPRESSLY OR INHERENTLY, AT LEAST ASSOCIATING THE SELECTED CAMERA WITH THE SELECTED PHOTOGRAPHIC PRODUCT AND/OR PHOTOGRAPHIC SERVICE PLAN AND CREATING A PRODUCT AND/OR PHOTOGRAPHIC SERVICE PLAN ACCOUNT INDICATIVE THEREOF AS RECITED IN CLAIM 1.

Ricoh fails to teach or suggest at least associating the selected camera with the selected photographic product and/or photographic service plan and creating a product and/or photographic service plan account indicative thereof. There is no teaching or suggestion of associating an image capture device, i.e. a camera, with a particular service plan and creating an account indicative thereof as taught and claimed by Appellant. In Ricoh, any goods or services that can be ordered at the Web site are selected by a user, “[f]riends and family”, and is not based or correlated with regard to designated image capture device as claimed by Appellant. *See Ricoh* at lines 8-11. Moreover, a Club

Photo membership does not create an account, indicative of the association of a camera with a particular service plan. A Club Photo membership merely includes “a free photo Web site that can house . . . albums for members,” but does not teach or suggest that the membership is indicative of the association of a camera with a particular service plan. *See Ricoh* at lines 15-16.

The Examiner, in “Response to Arguments,” argues that Ricoh discloses setting up an account in exchange for purchasing of a camera. Appellant respectfully submits that the software provided simply allows access to a web site where the user can do certain acts. This is not a plan or an account associated with a designated camera. Typically, such web site allows sharing etc. irrespective as to the source of the image, camera, computer, etc. There is nothing to indicate that services or goods are tied to a particular camera.

Cameraworld and Safai fail to remedy the deficiencies of Ricoh as both Cameraworld and Safai fail to teach or suggest at least associating the selected camera with the selected photographic product and/or photographic service plan and creating a product and/or photographic service plan account indicative thereof. There is no teaching or suggestion in Cameraworld or Safai to associate a product or service plan to a particular camera as taught and claimed by Appellant.

Thus, Ricoh, Cameraworld and Safai do not teach, expressly or inherently, associating the selected camera with the selected photographic product and/or photographic service plan and creating a product and/or photographic service plan account indicative thereof. Therefore, Appellant respectfully submits that claim 1 is patentable over Ricoh, Cameraworld and Safai.

c. RICOH, CAMERAWORLD AND SAFAI DO NOT DISCLOSE, EXPRESSLY OR INHERENTLY, AT LEAST MAINTAINING A COMPUTER DATABASE TO MAINTAIN RECORDS OF A SERVICE PLAN FOR A PREDETERMINED PERIOD OF TIME AS RECITED IN CLAIM 1.

According to Appellant’s invention as recited in claim 1, Appellant’s invention requires entering said product and/or photographic service plan account into a computer database to maintain a record of photographic products and/or photographic services to be provided with respect to images

captured by said selected camera in accordance with the selected photographic product and/or photographic service plan for a predetermined period of time.

Ricoh fails to teach or suggest at least entering said product and/or photographic service plan account into a computer database to maintain a record of photographic products and/or photographic services to be provided with respect to images captured by said selected camera for a predetermined period of time. Rather, Ricoh merely discloses a “Web site that can house complete albums for members,” and that “the album can be archived on the desktop.” *See Ricoh* at lines 15-22. Ricoh does not provide any teaching or suggestion of a database for maintaining a record of photographic products and/or photographic services. Also, as discussed above, Ricoh does not create a product and/or photographic service plan account, and thus, cannot possibly enter said product and/or photographic service plan account into a computer database to maintain a record of photographic products and/or photographic services to be provided with respect to captured images. Moreover, Ricoh does not disclose that a record or photographic product and/or photographic service plan has a specific duration, i.e., maintained for a predetermined period of time.

Cameraworld and Safai fail to remedy the deficiencies of Ricoh as both Cameraworld and Safai fail to teach or suggest at least entering said product and/or photographic service plan account into a computer database to maintain a record of photographic products and/or photographic services to be provided with respect to images captured by said selected camera for a predetermined period of time. With respect to Safai, Safai discloses that information, such as email addresses and voice instructions, are stored in a storage device 212 and are transmitted to and stored in a server. The server then uses the stored information to route photos. Col. 13, line 49 – Col. 6, line 32. However, Safai does not disclose a product or service plan, nor a product and/or photographic service plan account that is entered into a computer database to maintain a record of the photographic products and/or photographic services for a predetermined period of time.

Thus, Ricoh, Cameraworld and Safai do not teach, expressly or inherently, fail to teach or suggest at least entering said product and/or photographic service plan account into a computer database to maintain a record of photographic products and/or photographic services to be provided with respect to images captured by said selected camera for a predetermined period of time.

Therefore, Appellant respectfully submits that claim 1 is patentable over Ricoh, Cameraworld and Safai.

- d. **RICOH, CAMERAWORLD AND SAFAI DO NOT DISCLOSE, EXPRESSLY OR INHERENTLY, AT LEAST AUTOMATICALLY ACCESSING SAID COMPUTER DATABASE WHEN IMAGES ARE RECEIVED FROM SAID SELECTED CAMERA AND PROVIDING THE ASSOCIATED PHOTOGRAPHIC PRODUCT OR PHOTOGRAPHIC SERVICE AS RECITED IN CLAIM 1.**

According to Appellant's invention as recited in claim 1, Appellant's invention requires automatically accessing said computer database when images are received from said selected camera and providing the associated photographic product or photographic service. Appellant agrees with Examiners assertion that Ricoh and Cameraworld do not teach automatically accessing a computer database when images are received from a digital camera as stated by Examiner in the Final Office Action. More specifically, Ricoh discloses a manual manipulation of images, in which "a few clicks of the mouse" allows a user to "move or copy photos from the camera, scanner or disk to the Web." *See* Ricoh at lines 15-18. Ricoh does not teach or suggest providing a database having an account, which will automatically provide image products or services when images are received from a particular designated camera.

Cameraworld and Safai fail to remedy the deficiencies of Ricoh as both Cameraworld and Safai fail to teach or suggest at least automatically accessing said computer database when images are received from said selected camera and providing the associated photographic product or photographic service. Safai does not associate a selected camera with a selected photographic product and/or photographic service plan. At best, Safai's server mechanically uses information describing the user, such as an address, to route a photo. Moreover, Examiner has cited Safai for the proposition of illustrating the automatically forwarding of images from a camera to a remote server. Nevertheless, there is no teaching or suggestion of associating a particular service plan with a selected camera where upon there is the automatically accessing of a computer database when images are received from the selected camera and providing the associated photographic product or service plan.

Thus, Ricoh, Cameraworld and Safai do not teach, expressly or inherently, at least automatically accessing said computer database when images are received from said selected camera and providing the associated photographic product or photographic service. Therefore, Appellant respectfully submits that claim 1 is patentable over Ricoh, Cameraworld and Safai.

d. SUMMARY

In view of the above remarks, Appellant respectfully submits that claim 1 is patentable over the cited references. Because claims 2-14 depend from claim 1 and include the features recited in the independent claim as well as additional features, Appellant respectfully submits that claims 2-14 are also patentably distinct over the cited references.

Issue 2

CLAIMS 14, 15, 24 AND 36 ARE PATENTABLE OVER RICOH IN VIEW OF CAMERAWORLD BECAUSE RICOH AND CAMERAWORLD, ALONE OR IN COMBINATION, FAIL TO SHOW ALL OF THE ELEMENTS RECITED IN CLAIMS 14, 15, 24 AND 36.

With regard to claim 14, this claim is dependent upon independent claim 1 and is therefore patentably distinct at least for the same reasons previously discussed with regard to independent claim 1.

With regard to claims 15, 24 and 36, these additional independent claims are directed to a method and system for providing photographic products or services. Each of these claims include the limitation of selecting a product and/or service plan that is to be associated with a particular camera for a predetermined time and maintaining an account on a database with respect to the selected products or services associated with the selected camera. Here again, these claims are patentably distinct for the same reasons discussed with regard to independent claim 1. Ricoh or Cameraworld fail to teach or suggest at least selecting of a service plan and associating that with a particular designated camera and maintaining an account on a computer database for the selected product and/or

selected service associated with the selected camera, wherein the database is accessed for determining the photographic products or services to be provided with regard to images captured by the selected camera.

As an addition argument, Ricoh and Cameraworld are not properly combinable. In this regard, the Examiner has cited Club Photo to serve as extrinsic evidence that Ricoh relied on the claims selecting from a menu of photographic products or service plan. Appellant respectfully submits that the references must provide some evidence of a suggestion, teaching or motivation to be combined. Broad conclusory statements regarding the teaching of multiple references, standing alone, is not evidence. *In re Dembiczak*, 50 USPQ2d 1614 (Fed. Cir. 1999). The argument that the Club Photo web page serves extrinsic evidence that the Ricoh relied on the claim selecting from a menu of photographic products cannot be supported, as there is no teaching or suggestion in the reference to do so. As set forth in MPEP 706.02(j) “there must be some suggestion or motivation, either in the references themselves or the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings ... The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done”. The mere fact that Club Photo illustrates a page where various cameras may be purchased does not provide the teaching, suggestion of modifying the references by the mere fact of their existence. Furthermore, as previously discussed, even if the references were combined they fail to teach the claimed invention as set forth.

Thus, Ricoh and Cameraworld fail to teach or suggest, expressly or inherently, the elements recited in claims 14, 15, 24 and 36. Therefore, Appellant respectfully submits that claims 14, 15, 24 and 36 is patentable over Ricoh and Cameraworld. Because claims 16-17 and 25-35 depend from claims 15 and 24, respectively, and include the features recited in the independent claims as well as additional features, Appellant respectfully submits that claims 16-17 and 25-35 are also patentably distinct over the cited references.

Issue 3

CLAIMS 2 AND 3 ARE PATENTABLE OVER FRINK IN VIEW OF PROMO AND SAFAI BECAUSE FRINK, PROMO AND SAFAI, ALONE OR IN COMBINATION, FAIL TO SHOW THE ELEMENTS RECITED IN CLAIMS 2 AND 3.

Claims 2 and 3 are dependent claims that depend at least ultimately upon independent claim 1 and therefore are patentably distinct for the same reasons previously discussed. Claim 2 recites that the photographic products and/or photographic services include providing the selected camera to a user for a predetermined time period at a predetermined fee, and providing film development for a predetermined number of rolls of film exposed by said selected camera during said predetermined time period. Claim 3 depends from claim 2 and recites that the photographic services and/or photographic products further include providing a selected amount of photographic prints of said developed film. Frink and Promo fail to teach or suggest the invention as set forth in independent claim 1 for the reasons previously discussed. There is nothing in the Frink, Promo or Safai references that would render the invention, as set forth in claim 1, obvious.

Frink merely teaches providing photographic products or services. There is no association of the photographic service plan and camera as taught and claimed by Appellant. Frink is directed to a short-term rental. As such there is no teaching, suggestion or reason why there would be a database for storing of goods and/or services to be provided as taught and claimed by Appellant, nor for accessing the database as taught and claimed by Appellant. Rather, Frink is directed simply to the providing of cameras and rental equipment. The service of daily E-6 processing is simply the developing of film. Typically when film is developed this is when the customer typically identifies the particular goods or services to be provided. There is no teaching or suggestion setting up an account on a computer database or providing of goods and/or services with respect to images captured by a camera. The fact that these rentals are short time period rentals, teaches away from doing so. Further, there is no indication that this is different than any other type of situation where a user simply orders goods and/or

services at the time of supplying exposed film. The promotion of Frink is directed to enticing people to use the rental services. It does not teach or suggest providing of service plans and/or product plans with respect to images captured by a particular camera as taught and claimed by Appellant, nor does it teach providing of information on a database for later accessing for providing the appropriate goods or services. Quite the contrary, Frink is directed to nothing more than short-term rentals of cameras whereby customers order goods or services at some later point in time.

Promo fails to remedy the deficiencies of Frink. Promo is directed to a promotion for purchasing an Olympus camera and receiving free film developing. There is no teaching or suggestion of selecting, by a customer, various products or services from a menu of service plans, nor the providing of selected products or services or service plan on a database and providing such goods and/or services with respect to images obtained from a particular camera device on behalf of a particular customer as taught and claimed by Appellant.

Safai fails to remedy the deficiencies of Frink and Promo. Appellant respectfully refers to the discussion with regard to independent claim 1 where it is shown that Safia to has little relevance to the Appellant's invention.

Therefore, Appellant respectfully submits that claims 2 and 3 are patentable over Frink, Promo and Sadai.

Issue 4.

CLAIMS 18 AND 19 ARE PATENTABLE OVER FRINK IN VIEW OF PROMO BECAUSE FRINK AND PROMO, ALONE OR IN COMBINATION, FAIL TO SHOW THE ELEMENTS RECITED IN CLAIMS 18 AND 19.

Independent claim 18 is directed to a method of providing photographic products and/or services, which includes the limitation of selecting a photographic product or service plan from a menu of plans that is associated with a camera for a particular time period. Independent claim 18 also includes maintaining a record of photographic products or services on a computer database

and accessing the computer database for determining said photographic product or services to be provided with respect to images captured by the selected camera. It is respectfully submitted that claim 18 is patentably distinct for the reasons previously discussed above with regard to independent claim 1 and the discussion with regard to dependent claim 2. Claim 19 is dependent upon independent claim 18 and is therefore patentably distinct for the same reasons.

Thus, Frink and Promo fail to teach or suggest, expressly or inherently, the elements recited in claims 18 and 19. Therefore, Appellant respectfully submits that claim 18 and 19 is patentable over Frink and Promo. Because claims 20-23 also depend from claim 18 and include the features recited in the independent claims as well as additional features, Appellant respectfully submits that claims 20-23 are also patentably distinct over the cited references.

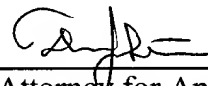
Summary

In summary, Appellant respectfully submits that the claims in the present invention are patentably distinct over the cited prior art.

Conclusion

In view of the foregoing, it is respectfully submitted the claims in their present form are patentably distinct over the cited prior art. In conclusion, for the above reasons, Appellant respectfully requests the Board of Patent Appeals and Interferences to reverse the rejection by the Examiner and mandate the allowance of the claims.

Respectfully submitted,



Attorney for Appellants
Registration No. 53,950

Thomas J. Strouse/phw
Telephone: 585-588-2728
Facsimile: 585-477-4646
Enclosures

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.

Appendix I - Claims on Appeal

1. A method of providing photographic products and/or photographic services, the method comprising the steps of:
 - selecting a camera among a selection of cameras;
 - selecting a photographic product and/or photographic service plan from a menu of photographic product and/or photographic service plans;
 - associating the selected camera with the selected photographic product and/or photographic service plan and creating a product and/or photographic service plan account indicative thereof;
 - entering said product and/or photographic service plan account into a computer database to maintain a record of photographic products and/or photographic services to be provided with respect to images captured by said selected camera in accordance with the selected photographic product and/or photographic service plan for a predetermined period of time; and
 - automatically accessing said computer database when images are received from said selected camera and providing the associated photographic product or photographic service.
2. A method according to claim 1, wherein said photographic products and/or photographic services comprise providing said selected camera to a user for a predetermined time period at a predetermined fee, and providing film development for a predetermined number of rolls of film exposed by said selected camera during said predetermined time period.

3. A method according to claim 2, wherein said photographic services and/or photographic products further comprise providing a selected amount of photographic prints of said developed film.

4. A method according to claim 2, wherein said photographic products and/or photographic services further comprise scanning the images on said film to provide for a digital record of said images.

5. A method according to claim 4, wherein said digital record is placed on a disk and supplied to a user or designated recipient.

6. A method according to claim 4, wherein said digital record is electronically forwarded to a user or designated recipient.

7. A method according to claim 4, wherein said photographic products and/or photographic services further comprise electronically storing said digital record for a predetermined amount of time.

8. A method according to claim 1, wherein said photographic products and/or photographic services comprise electronically storing images captured by said selected camera for a predetermined period of time.

9. A method according to claim 1, wherein said photographic products and/or photographic services comprise providing a predetermined number of prints of images captured by said selected camera.

10. A method according to claim 1, wherein said selected camera is a film camera.

11. A method according to claim 1, wherein said selected camera is a digital camera.

12. A method according to claim 1, wherein said selected camera is a hybrid digital/film camera.

13. A method according to claim 1, wherein said photographic products and/or photographic services comprise providing an image product associated with an image captured by said selected camera.

14. A method according to claim 1, comprising the further step of updating the product and/or photographic service plan account in the computer database as said photographic products and/or photographic services, in accordance with the selected photographic product and/or photographic service plan, are provided to a user to reflect photographic products and/or photographic services rendered to the user.

15. A method of providing photographic products and/or photographic services to a consumer, the method comprising the steps of:

- selecting a camera from a plurality of cameras and selecting a photographic product and/or photographic service by a customer from a menu of photographic products and/or services which are to be associated with said selected camera for a predetermined time period, wherein said photographic product and/or photographic service is provided with respect to images captured by said selected camera;
- maintaining an account on a computer database of said selected photographic products and/or photographic service associated with said selected camera; and
- accessing said account on said computer database with respect to images received from said selected camera and providing said good and or service associated with said selected camera.

16. A method according to claim 15, wherein said photographic product and/or photographic service comprises creating a predetermined number of prints from said images.

17. A method according to claim 15, wherein said photographic product and/or photographic service comprises placing said images on a disk and forwarding said disk to the customer.

18. A method of providing photographic products and/or photographic services, the method comprising the steps of:

selecting a camera from a plurality of cameras and selecting a photographic product and/or photographic service from a menu of photographic products and/or photographic services by a customer which are to be associated with said camera for a predetermined time period, wherein said photographic products and/or photographic services are provided to film exposed by said selected camera;

maintaining a record of photographic products and/or photographic services of said photographic services and/or photographic products selected by said customer on a computer database to be provided to said customer; and

accessing said computer database for determining said photograph product or service to be provided with respect to received images captured by said selected camera.

19. A method according to claim 18, wherein said photographic products and/or photographic services comprise developing said exposed film and providing a predetermined number of prints of images on said film.

20. A method according to claim 18, wherein said photographic products and/or photographic services comprise scanning said film to create a digital record of images on said film.

21. A method according to claim 20, wherein said photographic products and/or photographic services further comprise placing said digital record on a disk and forwarding said disk to the customer.

22. A method according to claim 20, wherein said photographic products and/or photographic services further comprise electronically storing said digital record for a predetermined period of time.

23. A method according to claim 20, wherein said photographic products and/or photographic services further comprise electronically sending said digital record of said images to the user.

24. A system for providing photographic products and/or photographic services, the system comprising:

a photographic product and/or photographic service input station into which information with respect to a selected camera and a selected photographic product and/or photographic service plan which is to be associated with the selected camera for a predetermined period of time is input, said photographic product and/or photographic service input station creating a product and/or photographic service account indicative of the selected camera and the selected photographic product and/or photographic service plan; and

a computer database unit operationally associated with the photographic product and/or photographic service input station which receives and stores the information with respect to the selected camera and the selected

photographic product and/or photographic service plan, said computer database unit being adapted to update said product and/or photographic service account as photographic product and/or photographic services in accordance with said selected photographic product and/or photographic service plan are requested and completed.

25. A system according to claim 24, wherein said computer database is operationally associated with at least one photographic product and/or photographic service provider, and said selected photographic product/photographic service plan comprises providing photographic products and/or photographic services to film exposed by said selected camera through said at least one photographic product and/or photographic service provider in accordance with the photographic product and/or photographic service plan for a predetermined time period.

26. A system according to claim 25, wherein said photographic products and/or photographic services comprise providing film developing for film exposed by said selected camera for said predetermined time period.

27. A system according to claim 26, wherein said photographic products and/or photographic services comprise providing prints of said developed film.

28. A system according to claim 25, wherein said photographic products and/or photographic services comprise scanning images on said film to provide a digital record of the images.

29. A system according to claim 28, wherein said digital record is placed on a disk and returned to a designated recipient.

30. A system according to claim 28, wherein said digital record is electronically forwarded to a designated recipient.

31. A system according to claim 28, wherein said photographic products and/or photographic services comprise storing said digital record for a predetermined amount of time.

32. system according to claim 24, wherein said photographic products and/or photographic services comprise electronically storing images captured by said selected camera for a predetermined period of time.

33. A system according to claim 24, wherein said photographic products and/or photographic services comprise providing a predetermined number of prints of images captured by said selected camera.

34. A system according to claim 24, wherein said photographic products and/or photographic services comprise providing an image product associated with an image captured by said selected camera.

35. A system according to claim 24, wherein said selected camera is one of a film, digital or hybrid film/digital camera.

36. A method of providing photographic products and/or photographic services to a plurality of different consumers, the method comprising the steps of:

each of said plurality of different consumers selecting product and/or service plan, said plan including a camera and photographic products and/or photographic services which are to be associated with said camera for a predetermined time period, wherein said photographic products and/or photographic services are provided to images captured by said selected camera; and

maintaining for each of said plurality of different consumers an account of said photographic products and/or photographic services at a service provider, each of said accounts having a unique customer ID, said account being accessible from a single input station.

Appendix II - Evidence

None

Appendix III – Related Proceedings

None